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July 1, 2005

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ELLEN ROY HERZFELDER
SECRETARY

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : The Clarendon
PROJECT MUNICIPALITY : Stuart and Clarendon Streets - Boston
PROJECT WATERSHED : Boston Harbor
EOEA NUMBER : 13300
PROJECT PROPONENT : Clarendon Street Associates
DATE NOTICED IN MONITOR : April 23, 2005

As Secretary of Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (DEIR) submitted on the above project **adequately and properly** complies with the Massachusetts Environmental Policy Act (G. L., c. 30, ss. 61-62H) and with its implementing regulations (301 CMR 11.00).

Project Description

As described in the DEIR and in supplemental information dated June 20, 2005, the proposed project consists of the construction of approximately 385,300 square feet (sf) of mixed-use space with a 393-space parking garage. The project site consists of a paved surface parking lot at 400 Stuart Street, a 3- to 4-story brick building currently housing the U.S. Postal Service at 390 Stuart Street, and an 8-story building occupied by the Hard Rock Café and office tenants at 131 Clarendon Street. The proponent is proposing to construct a 32-story (about 363 feet including mechanicals) building. The building has been reduced to 350 residential units (about 337,000 sf), a 22,000 sf postal office, a 13,400 sf restaurant, a 8,500 sf health club for building residents, and 4,400 sf of ground floor retail space. The project will be comprised of 350 residential units that will contain apartments and condominiums. Thirteen percent of the units will be designated as affordable. The 8-story building at 131 Clarendon Street will remain. The 47,000 sf post office building and the parking lot will be demolished to make way for the proposed building. The project site contains approximately 45,000 sf.

The project requires a mandatory EIR. It may require a Permit by the Executive Office of Transportation and Construction under Chapter 54A for construction on former railroad property. The project may require a construction dewatering permit, a Fossil Fuel Emission Permit, a Notice Regarding Asbestos Removal, a Notice Regarding Demolition and Construction, and a Sewer Extension/Connection Permit from the Department of Environmental Protection (DEP). It will need to obtain a Construction Dewatering Permit from the Massachusetts Water Resources Authority (MWRA). The project will require Section 106 Review by the Massachusetts Historical Commission (MHC). The Boston Redevelopment Authority (BRA) will evaluate the project pursuant to Article 80 Large Project Review process. The project must comply with the National Pollutant Discharge Elimination System (NPDES) General Permit for stormwater discharges from a construction site. It will need to submit a Notice of the Construction of Structures over 200-feet with the Federal Aviation Administration. Because the proponent is seeking Bond Financing Approval from the Massachusetts Development Finance Agency, under MEPA regulations there is broad scope jurisdiction, extending to all aspects of the project that may have significant environmental impacts.

Using the Institute of Traffic Engineers Trip Generation land use codes (220, 230, 820, and 931), the proponent has estimated that the project will generate approximately 1,112 average daily vehicle trips that are adjusted using Boston Transportation Department (BTD) mode splits.

The proposed project will be connected to existing municipal water and sewer service. It will consume about 129,000 gallons per day (gpd) of water and will generate about 117,000 gpd of wastewater flow.

Review of the DEIR:

The DEIR discussed the No-Build Alternative and the Preferred Alternative and alternative building configurations as recommended by the BRA. It reviewed an As of Right Alternative (453,820 sf), which is a residential alternative (465 units) that would be compliant with existing zoning for height (155 feet/17 stories) and density at the site. The DEIR also reviewed the Neighborhood Association for the Back Bay (NABB) Alternative, which contained the same square footage building allocations as the Preferred Alternative, 400 residential units, and 275 feet tall building (27 stories). All the alternatives had a Floor to

Area Ratio (FAR) of 10.0. The DEIR identified the impacts of each of the alternatives in a tabular format on the following areas: traffic, air quality, drainage/groundwater, drinking water, wastewater, construction, shadow/wind/daylight, sustainable design, waste, noise, and historic resources. On May 27, 2005, the proponent clarified that all of the alternatives studied have an FAR of 10.0, and it believes that the Preferred Alternative is the most suitable for the project site and the neighborhood based on urban design considerations and the analyses of development impacts. On June 20, 2005, the proponent revised the Preferred Alternative by reducing the building mass resulting in an FAR of 9.8. This proposed change enhances the view corridor from the Alfred Pope Building. The proponent has continued to refine the design of the exterior of the building resulting in the regularization of the fenestration patterns and the landscape design.

The Traffic Study was prepared in conformance with the EOE/EOTC Guidelines for EIR/EIS Traffic Impact Assessment. The proposed trip generation numbers were developed from the Institute of Traffic Engineers' land use codes and Boston Transportation Department (BTD) mode split numbers. The proponent summarized the analysis of impacts on the level of service (LOS) at the intersections required by the prior Certificate. The LOS analysis in the Traffic Study included both a.m. and p.m. peak weekday peak hours, volume to capacity ratios, a traffic distribution map, and background growth from other proposed developments in the area. For each intersection in the study area, the DEIR included with its LOS analysis: time delay, capacity, and a summary of the 95th percentile vehicle queues. The project location resulted in significant transit and walk mode shares.

The DEIR described how the project intends to accommodate service and loading functions. It included a parking needs assessment and an analysis of parking supply, demand and pricing in the project area. The DEIR demonstrated that the parking supply is no greater than the level necessary to accommodate project demand. It identified and met BTD's parking supply recommendations. Valet parking operations are described in the DEIR and are confined to the garage. The proponent proposes to charge market rates for parking fees.

The DEIR identified that there are no capacity constraints during peak hours on the Orange Line at Back Bay Station. The proponent has committed to provide bicycle parking spaces as recommended by the BTD guidelines of one bicycle parking space

for every three residential units.

The DEIR presented drainage calculations and detailed plans for the management of stormwater from the proposed project. It included a detailed description of the proposed drainage system design, including a discussion of the alternatives considered along with their impacts. The rates of stormwater runoff were analyzed for the 10, 25 and 100-year storm events.

The proponent will monitor groundwater levels and any dewatering of the construction site to ensure that there is no impact to the groundwater level. It will install six wells to monitor groundwater levels. The proponent will consult and coordinate its groundwater-monitoring program with the Boston Groundwater Trust (BGT).

The DEIR outlined the proponent's efforts to reduce water consumption and reduce wastewater generation. It identified that the municipal wastewater system is capable of handling the project's additional wastewater flows and the proponent will install wastewater flow metering devices. In the DEIR, the proponent has committed to provide Infiltration/Inflow (I/I) reduction of a minimum of a 4:1 ratio for the sewershed to which the flow is added.

The DEIR presented a discussion on potential construction period impacts. The proponent will coordinate its construction program with the nearby Columbus Center project, EOE #12459R and other neighbors.

The DEIR provided a comprehensive examination of the effects of wind and shadow on adjacent and proximate historic properties. The potential shadow impacts were superimposed on maps with the historic properties identified. The Massachusetts Historical Commission (MHC) has requested the proponent to explore the option of retention of the existing USPS facility (without the rear option) while constructing the development program. The proponent has determined in the DEIR that it cannot save the existing USPS facility.

The DEIR summarized the shadow/wind/daylight analysis. This summary included the 9:00 am, 12:00 noon, and 3:00 pm for the vernal equinox, summer solstice, autumnal equinox, and winter solstice; and a shadow analysis for 6:00 pm for each season except the winter solstice. The analysis identified existing shadow and net new shadow. The shadow study evaluated shadows cast on sidewalks and pedestrian areas, as well as public or

private open space within the study area. It quantified rooftop shadow impacts and impacts to the facades of historic properties. The DEIR analyzed pedestrian level wind impacts from the proposed project. The wind study identified the areas where pedestrian level winds are expected to exceed the BRA's acceptability criteria. It identified entrances to the project site and other nearby areas where pedestrians are expected to congregate and their corresponding pedestrian wind levels. The wind study identified impacts on public and private open spaces in the project area, and the nearest residential streets to the project.

The DEIR included an analysis of the visual impacts of the proposed project, including renderings of the proposed buildings as viewed from nearby residential areas in the Back Bay and South End. It included renderings from vantages from historic properties within the view shed.

The FEIR should resolve all the remaining issues outlined below, as required by this Certificate. It should include a copy of this Certificate.

Project Description & Regulatory Environment:

The FEIR should include a detailed description of the project and highlight any revisions to it. It should include an existing and a proposed site plan. The FEIR should describe each state agency action required for the project. It should identify the amount of state funds/bonds that may be requested for this project.

Drainage/Groundwater:

The FEIR should identify the I/I removal projects as requested by DEP. The maintenance program for the drainage system should outline the actual maintenance operations, sweeping schedule, and responsible parties in the FEIR. The FEIR should identify the pumping station that would receive project stormwater/wastewater flows.

Because the project site is located in an area of lowered groundwater levels, the FEIR should update reviewers on new information obtained by the proponent for this area. The proponent should file certification that no groundwater has been pumped or drained from the site to BGT on an annual basis. The FEIR should provide an inventory of existing foundations in the area, document the elevation and condition of existing wood

pilings that exist on the site, and report on potential causes of reduced groundwater in the area.

Historic Resources/Cultural Issues:

The FEIR should contain the additional information concerning the shift of the tower components and should update with any additional materials since submitting the DEIR. It should update reviewers on its meetings with MHC and the measures that the proponent is taking to comply with MHC's review. The FEIR should analyze the visual effects of the proposed building on the setting of the Stuart Street-Park Square area to MHC's satisfaction. The proponent should work closely with MHC to resolve its remaining issues.

Wind and Shadow Impacts:

The FEIR should specifically address the many comment on wind impacts. The proponent should update the FEIR by providing the additional material (dated June 20, 2005) and any further discussions with the BRA on this issue. The FEIR should discuss why mitigation measures were only applied to the Preferred Alternative in the DEIR. The Neighborhood Association of the Back Bay (NABB) questioned the proponent's assertion that the As-Of-Right Alternative and the NABB Alternative create more wind than the Preferred Alternative. The FEIR should explain how reviewers are supposed to compare alternatives if they are not provided with mitigation. Now that the Preferred Alternative has been revised on June 20, 2005, the FEIR should discuss whether the revised Preferred Alternative changes the proposed wind analysis at any of the measured points. The FEIR should discuss what the potential mitigation measures (awnings, landscaping, etc.) are and their locations. It should demonstrate that the proposed building massing is located in the optimal location to reduce wind.

The FEIR should study how new shadow could be avoided or adequately mitigated on Trinity Church. It should identify the number of days, how far up the façade the shadows will fall, and the areas impacted by new shadow that its revised Preferred Alternative would create on Trinity Church.

Transit:

The FEIR should review why the issue of the opening of the Clarendon Street exit as an entrance to Back Bay Station for the Orange Line and Commuter Rail is not possible.

Mitigation:

The FEIR should include a separate chapter on mitigation measures. It should develop additional transportation and parking demand management measures to reduce single passenger automobile trips to the project. This chapter on mitigation should include proposed Section 61 Findings for all state permits (EOTC, DEP, MWRA, and MDFA). The proposed Section 61 Findings should contain a clear commitment to mitigation, an estimate of the individual costs of the proposed mitigation, and the identification of the parties responsible for implementing the mitigation. A schedule for the implementation of mitigation should also be included.

The proponent has committed to the following mitigation measures in the DEIR:

- Retaining 131 Clarendon Street, which is eligible for the State Register.
- Incorporate accommodations for bicycle access and storage consistent with BTB guidelines.*
- Install new and wider brick sidewalks and crosswalk pavement markings around the project site, approximately \$225,000.
- Work with the BTB on assessing signal timing and phasing changes to facilitate traffic at the Columbus Avenue/Clarendon Street and Stuart/Clarendon Streets intersections during the am peak and the Columbus Avenue/Clarendon Street, Stuart/Clarendon Streets, Stuart/Berkeley Streets, and St. James Avenue/Berkeley Street intersections in the pm peak, approximately \$25,000.
- Work with the BTB to improve traffic management for pedestrian crossings at Stuart/Clarendon Streets during the am peak, Boylston/Berkeley Streets during the pm peak, and Stuart Street/Trinity Place and Stanhope/Clarendon Streets during both am and pm peaks, approximately \$10,000.
- Provide police details to facilitate traffic flow during construction.*
- Post "No Idling" signs in the parking garage and at the delivery/loading area and install carbon monoxide monitors in the garage and loading areas.*
- Encourage commercial tenants to subsidize transit passes for employees and provide subsidies for one MBTA subway pass for

* Included in the expected building construction and/or maintenance costs.

each residential unit during the first six months after the initial sale or rental of each unit, approximately \$125,000.

- Prepare a Transportation Access Plan Agreement (TAPA) with a parking demand management plan and a Construction Management Plan (CMP) for BTB, approximately \$15,000.
- Locate one parking space for a shared-car service in the garage, approximately \$75,000.
- Implement a TDM program that includes tenant and resident orientation packets, participation in the Artery Business Committee Transportation Management Association (TMA), and charge market parking rates.
- Provide canopies and other design devices designed to mitigate wind impacts.*
- Explore the temporary and permanent recharge of site stormwater runoff (i.e., dewatering effluent during below-grade construction and roof runoff following building construction) and implement if feasible.
- Seek LEED Certification for this "green building", approximately \$3.2 million.
- Install wastewater flow metering devices, approximately \$3,000.
- Provide I/I reduction of a minimum of a 4:1 ratio for the sewershed.
- Provide approximately \$150,000 to the BRA to conduct a planning study of the Stuart Street/Park Plaza Corridor.
- Investigate participating in DEP's Diesel Retrofit Program and require contractors to use low-sulfur diesel fuel in off-road construction equipment.
- Provide house emergency generators in a sound-mitigating penthouse.*
- Provide acoustical louvers, if needed, on garage exhaust vents.*
- Provide recycling measures and areas for recycling in the building.*
- Monitor the lateral excavation support system with respect to movements and the construction sequence of below grade work, approximately \$75,000.
- Implement a geotechnical instrumentation program during construction, including installing and initializing (take initial readings and publish a baseline report) all the geotechnical instrumentation including the observation wells, inclinometers, settlement points and some building

crack gages, approximately \$100,000 plus the cost of monitoring.

- As part of a commitment to protect groundwater levels in the area, coordinate with the Boston Groundwater Trust (BGT), provide six permanent monitoring/observation wells on-site, and provide a \$75,000 monetary contribution to BGT.
- Recycle construction demolition material.*

The FEIR should include a draft TAPA, CMP, and a parking management plan.

In the FEIR, the proponent should propose specific traffic mitigation at the following intersections, which show poor LOS. These intersections are: Columbus Avenue/Clarendon Street, Stuart/Clarendon Streets, Stanhope/Clarendon Streets, Stuart/Berkeley Streets, and St. James Avenue/Berkeley Street. The proponent should identify specific mitigation at the following pedestrian crosswalks: Berkeley North Crosswalk at Boylston/Berkeley Streets, Stuart East Crosswalk at Stuart/Clarendon Streets, Stuart East & West Crosswalks at Stuart Street/Trinity Place, and the Clarendon North Crosswalk at Stanhope/Clarendon Streets. Any proposals to improve the LOS and safety at these intersections would improve the environment in this neighborhood.

Comments:

The FEIR should respond to the comments received to the extent that the comments are within the subject matter of this scope. Each comment letter should be reprinted in the FEIR. The Response to Comments section should provide clear answers to questions raised.

Circulation:

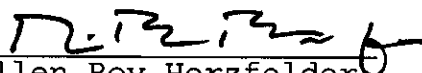
The FEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should also be sent to the list of "comments received" below and to Boston officials. A copy of the FEIR should be made available for public review at the Boston Public Library. The proponent should provide a hard copy of the FEIR to each state agency from which the proponent will seek permits or approvals and to the City of Boston's commenting agencies.

In an effort to conserve resources, I will allow the proponent to circulate the FEIR in a CD-ROM format to individual (non-agency) commenters, although the proponent should make a reasonable number of print copies available on a first come,

first served basis, to accommodate those without convenient access to a computer.

July 1, 2005

DATE


Ellen Roy Herzfelder

cc: Representative Byron Rushing
Representative Martha M. Walz
Nancy Baker, DEP/NERO

Comments received:

04/7/2005	Rick Gleason
04/25/2005	Jackie McBride
05/04/2005	Holland+Knight
05/06/2005	Eugene F. Kelly
05/12/2005	Epsilon Assoc.
05/13/2005	Saunders Hotel Group
05/16/2005	Ultimate /Andrew Tuchler
05/17/2005	Kathleen McDermott
05/17/2005	John Shope
05/18/2005	The Ellis South End Neighborhood Association
05/18/2005	Ralph Disch
05/18/2005	Bill Nigreen
05/18/2005	Susan Dwight Prindle
05/18/2005	Boston Groundwater Trust
05/19/2005	Susan Dwight Prindle
05/19/2005	Dorothy Bowmer
05/19/2005	Cindy Pasquina
05/20/2005	Epsilon Assoc.
05/20/2005	Holland & Knight
05/20/2005	Sylvia Blumenthal
05/20/2005	Dorothy Atwood
05/20/2005	Marianne Castellani
05/20/2005	Tom High
05/21/2005	Susan Ashbrook
05/22/2005	Steven Sayers
05/23/2005	Ned Flaherty
05/23/2005	Goulston & Storrs - Adam Hundley
05/23/2005	DEP/NERO

05/23/2005 Shirley Kressel (2)
05/23/2005 Nan Rubin
05/23/2005 Boston Water and Sewer Commission
05/26/2005 Mark Maloney
05/26/2005 Bricklayers and Allied Craftsmen Local #3
05/26/2005 BED
05/27/2005 Shirley Kressel
05/27/2005 Epsilon Assoc.
05/23/2005 A.D.Hilyer
06/01/2005 Beacon Hill Realty
06/02/2005 Back Bay Assoc.
06/02/2005 Carolyn Spicer
06/02/2005 A.O. Gordon (2)
06/02/2005 Brian Callaghan (2)
06/02/2005 Nick Haney
06/02/2005 Douglas Vanderbilt
06/02/2005 Lala Rokh
06/02/2005 Talanian Realty
06/03/2005 Courtney Kopplin
06/03/2005 Jim McCormick
06/03/2005 Neighborhood Association of the Back Bay
06/03/2005 David Lapin
06/03/2005 Aoife Austin
06/03/2005 Arclinea - Philip Guarino
06/03/2005 Boston City Council- James Kelly
06/04/2005 Shirley Kressel
06/05/2005 Mark Slater
06/05/2005 Lily Chin & Arthur Chin
06/05/2005 June McCourt
06/06/2005 MBTA
06/06/2005 Jurys Boston Hotel
06/06/2005 Susan Buta
06/06/2005 Nancy Morrisroe
06/06/2005 The Bay Village Neighborhood Association
06/06/2005 Douglas Fiebelkorn (2)
06/06/2005 Michael Rosenzweig
06/06/2005 Massachusetts Historical Commission
06/06/2005 Anne Swanson
06/06/2005 Molly Mosier
06/06/2005 Douglas Hill
06/06/2005 Representative Byron Rushing
06/06/2005 Judy Schatz
06/06/2005 Sawyer Enterprises
06/07/2005 Epsilon Assoc.
06/07/2005 The Lenox
06/07/2005 The Copley Square Hotel
06/10/2005 Epsilon Assoc.

06/10/2005	Jackie McBride
06/13/2005	Epsilon Assoc.
06/13/2005	Representative Martha M. Walz
06/13/2005	Epsilon Assoc.
06/13/2005	Epsilon Assoc.
06/14/2005	TEAM/International Masonry Institute
06/17/2005	Jackie McBride
06/20/2005	Epsilon Assoc.
06/21/2005	Alan Bilzerian
06/21/2005	BRA
06/23/2005	Susan D. Prindle
06/23/2005	Jackie McBride
06/24/2005	Pamela McDermott
06/27/2005	Jackie McBride
06/28/2005	The Gleason Partnership
06/28/2005	Jackie McBride
06/28/2005	Jackie McBride Yessian
06/29/2005	Jackie McBride
06/29/2005	The Gleason Partnership
06/29/2005	Jackie McBride
06/29/2005	Epsilon Assoc.
06/29/2005	Epsilon Assoc.
06/29/2005	Copley Place

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